

2 AF

TRANSMITTAL

PATENT

Application No.: 10/033,407
Filing Date: December 26, 2001
First Named Inventor: David Gaxiola, et al.
Examiner's Name: Gillis, Brian J
Art Unit: 2141
Attorney Docket No.: 080398.P443

- ☐ An Amendment After Final Action (37 CFR 1.116) is attached and applicant(s) request expedited action.
- ☒ Charge any fee not covered by any check submitted to Deposit Account No. 02-2666.
- ☒ Applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 CFR 1.16 and 1.17, for any concurrent or future reply to Deposit Account No. 02-2666.
- ☐ Applicant(s) claim small entity status (37 CFR 1.27).

ATTACHMENTS

- ☐ Preliminary Amendment
- ☐ Amendment/Response with respect to Office Action
- ☐ Amendment/Response After Final Action (37 CFR 1.116) (reminder: consider filing a Notice of Appeal)
- ☐ Notice of Appeal
- ☐ RCE (Request for Continued Examination)
- ☐ Supplemental Declaration
- ☐ Terminal Disclaimer (reminder: if executed by an attorney, the attorney must be properly of record)
- ☐ Information Disclosure Statement (IDS)
- ☐ Copies of IDS citations
- ☐ Petition for Extension of Time
- ☐ Fee Transmittal Document (that includes a fee calculation based on the type and number of claims)
- ☐ Cross-Reference to Related Application(s)
- ☐ Certified Copy of Priority Document
- ☒ Other: Response To Notice Of Non-Compliant Appeal Brief
- ☒ Other: Appeal Brief Under 37 C.F.R. § 41.37
- ☐ Check(s)
- ☒ Postcard (Return Receipt)

SUBMITTED BY:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

TYPED OR PRINTED NAME: Eric S. Replogle

SIGNATURE: 

REG. NO.: 52,161

DATE: January 25, 2008

ADDRESS: 1279 Oakmead Parkway

Sunnyvale, CA 94085-4040

TELEPHONE NO.: (408) 720-8300

CERTIFICATE OF MAILING BY FIRST CLASS MAIL (if applicable)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450 on January 25, 2008

Date of Deposit

Carla Anyisia Nascimento

Name of Person Mailing Correspondence

January 25, 2008

Date

Signature 

Express Mail Label No. (if applicable):

Send to: COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, Virginia 22313-1450

(10/14/03)



Atty Docket No. 80398.P443

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:) Examiner: Gillis, B.
)
Gaxiola, et al.) Art Unit: 2141
)
Serial No. 10/033,407) Confirmation No: 8558
)
Filed: December 26, 2001)
)
For: DEVICE BASED DETECTION)
OF USER PREFERENCES IN A)
HOME NETWORKING)
ENVIRONMENT)

P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

This is a response to the Notice of Non-Compliant Amendment mailed December 26, 2007. The Examiner objected to the appeal brief because the appeal brief does not contain a separate concise explanation of the claimed subject matter for independent claims 1 and 10 and that the Argument section did not include claim 14. In response, Appellant respectfully submits that the attached appeal brief, as amended, overcomes these objections. Accordingly, Appellant respectfully requests the withdrawal of the objection.


REMARKS

Applicants hereby submit an amended Appeal Brief Under 37 C.F.R. §41.37.
Applicant believes there is no fee due. If there are costs involved, please charge them to
Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: January 25, 2008


Eric S. Replogle
Registration No. 52,161

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300 x309



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	Examiner: Gillis, B.
)	
Gaxiola, et al.)	Art Unit: 2141
)	
Application No. 10/033,407)	Confirm. No: 8558
)	
Filed: December 26, 2001)	
)	
For: DEVICE BASED DETECTION)	
OF USER PREFERENCES IN A)	
HOME NETWORKING)	
ENVIRONMENT)	
)	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 2141, mailed June 23, 2006, in which claims 1-2, 4-11, and 13-32 in the above-identified application were rejected in a final action. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellant's invention as claimed in claims 1-2, 4-11, and 13-32 is directed to configuring a shared network access device that is accessible to a consumer device and another device coupled to a network [Specification, Figure 1, paragraph 11].

Independent claim 1 also claims detecting, by a custom settings manager, a coupling of the consumer device to a network [Specification, paragraph 11]. In addition, claim 1 claims remotely identifying a presumed user corresponding to an implied owner

of the consumer device [Specification, Figure 2, paragraphs 13 and 15]. Furthermore, claim 1 claims provisioning a user service available in the network according to user preferences associated with the presumed user [Specification, Figure 2, paragraphs 13, 15, 19, and 21].

Independent claim 10 also claims detecting, by a custom settings manager, a coupling of the consumer device to a network [Specification, paragraph 11]. In addition, claim 10 claims remotely identifying a presumed user corresponding to an implied owner of the consumer device [Specification, Figure 2, paragraphs 13 and 15]. Furthermore, claim 10 claims provisioning a user service available in the network according to user preferences associated with the presumed user [Specification, Figure 2, paragraphs 13, 15, 19, and 21].

Independent claim 19 also claims a user profile comprising user preferences of a presumed user associated with an implied owner of the consumer device [Specification, paragraphs 13, 15, and 22-23]. Furthermore, claim 19 claims a custom settings manager that, in response to the device being coupled to the network, remotely identifies the device user, access the user profile, and provisions a user service available in the network [Specification, Figure 2, paragraphs 13, 15, 19, and 21].

Independent claim 25 also claims a plurality of consumer devices selectively coupled to the network [Specification, Figure 1, paragraphs 11-13]. In addition, claim 25 claims a custom settings manager configured to remotely identify a presumed user corresponding to an implied owner of the devices, and to provision a user service available in the network [Specification, Figure 2, paragraphs 13, 15, 19, and 21].

Dependent claim 6 depends from independent claim 1 and claims identifying a user who has most recently used the consumer device [Specification, paragraph 28].

Dependent claim 7 depends from independent claim 1 and claims unloading a service according to user preferences [Specification, paragraph 20].

Dependent claim 21 depends from independent claim 19 and claims that the user is associated to the consumer device by examining the other devices and services on the network [Specification, paragraph 26].

Dependent claim 22 depends from independent claim 19 and claims that the user is associated to the last user of the consumer device [Specification, paragraph 20].

VII. ARGUMENTS

- I. Claims 1, 2, 4, 5, 10, 11, 13, and 14 are Patentable under 35 U.S.C. § 103(a) over Norris in view of Ricart and Narayanaswami, because the combination does not teach or suggest all elements in the claims.

Claims 1, 2, 4, 5, 10, 11, 13, and 14 stand or fall together. Independent claim 1 is the representative claim.

Norris discloses configuring a computer attached to a network based on an analysis of the traffic flowing on the network. The computer analyzes the traffic on the network to determine the users participating in the network. The computer compares the users participating in the network with a list of known user participant patterns. If there is a match with a known user pattern, then the computer configures itself with network parameters associated with the known participants.

Ricart discloses personalizing a new computer based on stored personalization information of an old computer. The new computer is personalized after the new computer replaces the old computer. In addition, the system personalizes a network of computers by personalizing the new local server, storing the personalization information for networked workstations on the new local server and personalizing the workstations.

Narayanaswami discloses configuring consumer devices with a smart pointing device. The devices configurable by the smart pointing are personal computers, personal digital assistants, and cell phones. The smart pointing device can configure a device coupled to the smart pointing device or another consumer device adjunct to the coupled device.

Appellant respectfully submits that the combination of Norris, Ricart and Narayanaswami does not teach or suggest each and every element of claim 1. Claim 1 recites configuring a shared network access device according to user preferences, where the network access device is accessible by the consumer device and another device coupled to the network. The Examiner admits that Norris and Ricart do not teach or suggest configuring a shared network access device according to user preferences and relies on Narayanaswami as disclosing this element. Nevertheless, Narayanaswami does

not teach or suggest configuring a shared network access device according to user preferences because the reference discloses only configuring a consumer device, such as a personal computer, personal digital assistant, or cell phone. Furthermore, Narayanaswami does not teach or suggest configuring a “shared network access device” that is different from a “consumer electronic device”, as claimed. Thus, none of Norris, Ricart, or Narayanaswami disclose this claim element in claim 1.

In addition, independent claim 1 recites that such a configurable “shared network access device” is accessible by the “consumer electronic device” and also by another device coupled to the network. In contrast, Narayanaswami makes no disclosure that teaches or suggests that the “shared network access device” is accessible by Narayanaswami’s “consumer electronic device” and another device coupled to the network. Therefore, Appellant respectfully submits that Norris, Ricart, and Narayanaswami do not teach or suggest this further claim limitation in claim 1.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 1, 2, 4, 5, 10, 11, and 13 under 35 U.S.C. § 103(a) over the combination of Norris, Ricart, and Narayanaswami.

II. Claims 6 and 15 are Patentable under 35 U.S.C. § 103(a) over Norris in view of Ricart, Narayanaswami, and Dharmadhikari because the combination does not teach or suggest all elements in the claims.

Claims 6 and 15 stand of fall together. Dependent claim 6 is the representative claim.

Dharmadhikari discloses modifying a routing table based on a selected network interface of a local computer. A policy manager selects the network interface by matching the characteristics of the network interface with a set of user preferences.

Appellant respectfully submits that the combination does not teach or suggest each and every limitation of Appellant’s claim 6. Claim 6 depends from independent claim 1. Independent claim 1 recites configuring a shared network access device according to user preferences, where the network access device is accessible by the consumer device and another device coupled to the network. In contrast, Dharmadhikari only receives the user preferences to configure a local computer and does not teach or

suggest configuring a shared home network device as claimed as claimed in claim 1. Furthermore, none of Norris, Ricart or Narayanaswami teach or suggest this claim limitation. Therefore, the combination cannot render obvious Appellant's claim 6.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 6 and 15 under 35 U.S.C. § 103(a) over the combination of Dharmadhikari, Norris, Ricart and Narayanaswami.

III. Claims 7-9 and 16-18 are Patentable under 35 U.S.C. § 103(a) over Norris in view of Ricart, Narayanaswami, and Reed because the combination does not teach or suggest all elements in the claims.

Claims 7-9 and 16-18 stand or fall together. Dependent claim 7 is the representative claim.

Reed discloses controlling a user's environmental condition within a predefined area based on the user's preference.

Claim 7 depends from independent claim 1. Independent claim 1 recites configuring a shared network access device according to user preferences, where the network access device is accessible by the consumer device and another device coupled to the network. However, because Reed does not teach or suggest a shared network access device, Reed cannot be properly interpreted as disclosing the claimed element in claim 1. As stated above, none of Norris, Ricart, or Narayanaswami teach or suggest this element as claimed in claim 1. Therefore, the combination cannot render obvious Appellant's claim 7.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 7-9 and 16-18 under 35 U.S.C. § 103(a) over the combination of Norris, Ricart, Narayanaswami, and Reed.

IV. Claims 19, 20, 23-26, and 29-32 are Patentable under 35 U.S.C. § 103(a) over Dharmadhikari in view of Ricart and Narayanaswami, because the combination does not teach or suggest all elements in the claims.

Claims 19, 20, 23-26, and 29-32 stand or fall together. Independent claim 19 is the representative claim.

Independent claim 19 recites configuring a shared network access device according to user preferences, where the network access device is accessible by the consumer device and another device coupled to the network. As stated above, none of Dharmadhikari, Ricart, or Narayanaswami teach or suggest this claim element.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 19, 20, 23-26, and 29-32 under 35 U.S.C. § 103(a) over the combination of Dharmadhikari, Ricart, or Narayanaswami.

V. Claims 21 and 27 are Patentable under 35 U.S.C. § 103(a) over Dharmadhikari in view of Ricart, Narayanaswami, and Norris because the combination does not teach or suggest all elements in the claims.

Claims 21 and 27 stand or fall together. Dependent claim 21 is the representative claim.

Independent claim 19, from which claim 21 depends from, recites configuring a shared network access device according to user preferences, where the network access device is accessible by the consumer device and another device coupled to the network. As stated above, none of Dharmadhikari, Ricart, Narayanaswami, or Norris teach or suggest this claim element in claim 19. Therefore, the combination cannot render obvious Appellant's claim 21.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 21 and 27 under 35 U.S.C. § 103(a) over the combination of Dharmadhikari, Ricart, Narayanaswami, and Norris.

VI. Claims 22 and 28 are Patentable under 35 U.S.C. § 103(a) over Dharmadhikari in view of Ricart, Narayanaswami, and Bunney because the combination does not teach or suggest all elements in the claims.

Claims 22 and 28 stand or fall together. Dependent claim 22 is the representative claim.

Bunney discloses associating multiple terminal addresses with a user to allow the user access a common home page from multiple user terminals.

Independent claim 19, from which claim 22 depends from, recites configuring a shared network access device according to user preferences, where the network access device is accessible by the consumer device and another device coupled to the network. However, because Bunney only discloses associating multiple terminal addresses with a user, Bunney cannot teach or suggest configuring a shared network access device as claimed. As stated above, none of Dharmadhikari, Ricart, or Narayanaswami teach or suggest this claimed element in claim 19. Therefore, the combination cannot render obvious Appellant's claim 22.

Accordingly, Appellant respectfully requests the withdrawal of the rejection of the claims 22 and 28 under 35 U.S.C. § 103(a) over the combination of Dharmadhikari, Ricart, Narayanaswami, and Bunney.

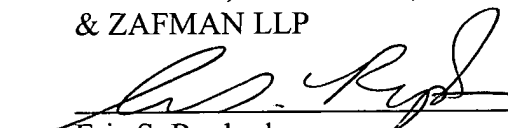
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: January 25, 2008


Eric S. Replogle
Registration No. 52,161

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040
(408) 720-8300